

AMENDED IN SENATE MARCH 26, 2007

SENATE BILL

No. 514

Introduced by Senator Dutton

February 22, 2007

~~An act to amend Section 7052 of the Health and Safety Code, relating to human remains. An act to add Section 264.5 to the Penal Code, relating to crimes.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 514, as amended, Dutton. ~~Human remains: sexual contact. Sexual contact: murder.~~

Under existing law, every person who willfully mutilates, disinters, removes from the place of interment, or commits an act of sexual penetration on, or has sexual contact with, any remains known to be human, without authority of law, is guilty of a felony. Under existing law, the penalty for a person who commits first degree murder in the commission or attempted commission of rape, is death or imprisonment in the state prison for life without the possibility of parole.

This bill would provide that ~~if a person who is found to have engaged in sexual contact with, or sexual penetration on human remains is found to have occurred after the person killed the victim, the punishment of, as defined, a person whom he or she has intentionally killed, or a person who intentionally aids, abets, counsels, commands, induces, solicits, requests, or assists another person to do so, shall be punished by imprisonment in the state prison for life without the possibility of parole. The bill would state that its provisions do not preclude a penalty of death, if otherwise applicable.~~ Because the bill would create a new crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 7052 of the Health and Safety Code is~~
2 ~~amended to read:~~

3 ~~7052. (a) Every person who willfully mutilates, disinters,~~
4 ~~removes from the place of interment, or commits an act of sexual~~
5 ~~penetration on, or has sexual contact with, any remains known to~~
6 ~~be human, without authority of law, is guilty of a felony. This~~
7 ~~section does not apply to any person who, under authority of law,~~
8 ~~removes the remains for reinterment, or performs a cremation.~~

9 ~~SECTION 1. Section 264.5 is added to the Penal Code, to read:~~

10 ~~264.5. (a) Any person who is found to have engaged in sexual~~
11 ~~contact with, or sexual penetration of, a person whom he or she~~
12 ~~intentionally killed is guilty of a felony and shall be punished by~~
13 ~~imprisonment in the state prison for a term of life without the~~
14 ~~possibility of parole.~~

15 ~~(b) Any person who intentionally aids, abets, counsels,~~
16 ~~commands, induces, solicits, requests, or assists another person~~
17 ~~to engage in an act prohibited by subdivision (a), and the other~~
18 ~~person does that act, is guilty of a felony and shall be punished by~~
19 ~~imprisonment in the state prison for a term of life without the~~
20 ~~possibility of parole.~~

21 ~~(c) Notwithstanding the punishment provided in subdivisions~~
22 ~~(a) and (b), this section shall not be construed to prevent the~~
23 ~~imposition of a sentence of death, if that penalty would apply under~~
24 ~~other provisions of law.~~

25 ~~(b)~~

26 ~~(d) For purposes of this section, the following definitions apply:~~

27 ~~(1) "Sexual penetration" means the unlawful penetration of the~~
28 ~~vagina or anus, however slight, by any part of a person's body or~~
29 ~~other object, or any act of sexual contact between the sex organs~~
30 ~~of a person and the mouth or anus of a dead body, or any oral~~

1 copulation of a dead human body for the purpose of sexual arousal,
2 gratification, or abuse.

3 (2) “Sexual contact” means any willful touching by a person of
4 an intimate part of a dead human body for the purpose of sexual
5 arousal, gratification, or abuse.

6 ~~(e) If the sexual contact or penetration is found to have occurred~~
7 ~~after the person killed the victim, the punishment shall be~~
8 ~~imprisonment in the state prison for life without the possibility of~~
9 ~~parole.~~

10 SEC. 2. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district will be incurred because this act creates a new crime or
14 infraction, eliminates a crime or infraction, or changes the penalty
15 for a crime or infraction, within the meaning of Section 17556 of
16 the Government Code, or changes the definition of a crime within
17 the meaning of Section 6 of Article XIII B of the California
18 Constitution.